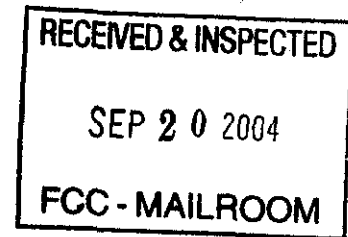


September 13, 2004

Ms. Marlene H. Dortch
Secretary, Federal Communications Commission
445 12th St. S.W.
Washington DC 20554



Re: MM Docket 86-440

Dear Ms. Dortch:

I, Sid Shumate, as President of Givens & Bell, Inc., and as President of Evangel Communications, Inc., hereby submit the enclosed Objections, submitted informally in re Givens & Bell Inc., and submitted formally in re: Evangel Communications, Inc., to the grant of a License to Cover for television station WCAV, Charlottesville, Virginia, and also Petition the Commission for Reconsideration and Special Relief with regards to the construction permit applications of Evangel Communications, Inc., file # BPCT-860410KN, and of Givens & Bell, Inc. File No. BPCT-19961023KF.

I certify that I am mailing or hand-carrying true copies to the following interested parties:

Mr. Gene A. Bechtel, Esq.
Law Office of Gene Bechtel, P.C., Suite 600
1050 Seventeenth St., NW
Washington DC 20036

Gray Television Licensee, Inc.
1750 K. Street, NW
Suite 1200
Washington, DC 20006

Lauren A. Colby, Esq.
Law Office of Lauren A. Colby
10 East 4th St.
Frederick MD 21701

Vincent A. Pepper, Esq.
Womble Carlyle Sandridge & Rice
1401 Eye Street, NW, 7th Floor
Washington DC 20005

Ms. Katrina Renouf, Esq.
Renouf and Polivy
432 Sixteenth St., N.W.
Washington DC 20036

A handwritten signature in cursive script, reading "Sidney E. Shumate".

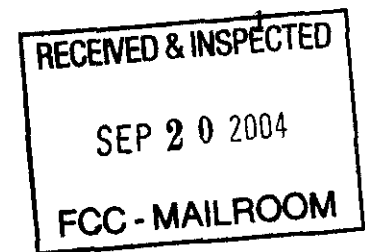
Sidney E. Shumate
President, Evangel Communications, Inc.
President, Givens & Bell, Inc.
1897 Ridge Road, Haymarket VA 20169

No. of Copies rec'd 014
List ABOVE

Before the

Federal Communications Commission
Washington, D.C. 20554

Before the
Federal Communications Commission
Washington, D.C. 20554



In re Application of)	MM DOCKET NO. 86-440
)	
Charlottesville Broadcasting Corporation)	Facility ID #363, Call Sign
WCAV		
And it's assignee, Gray Licensee, Inc.)	File No. BLCT-20040813AAJ
For a License to Cover for Television)	
Station WCAV, Charlottesville, VA)	
For A New TV Station on Channel 19)	
At Charlottesville, Virginia)	
)	
The Application for Construction Permit)	File No. BPCT-19860410KN
of Evangel Communications, Inc. for Ch. 64)	
At Charlottesville, VA)	
)	
The Application for Construction Permit)	File No. BPCT-19961023KF
Of Givens & Bell, Inc. for Ch. 64)	
At Charlottesville, VA)	

**Informal and Formal Objections
and
Petition for Reconsideration and Special Relief**

September 13, 2004

Ms. Marlene H. Dortch
Secretary, Federal Communications Commission
445 12th St. S.W.
Washington DC 20554

Re: MM Docket 86-440, the application for television broadcast station license consent to assignment of broadcast station construction permit or license BAPCT – 20040316AJT, and the application for construction permit of Evangel Communications, Inc. for Ch. 64 at Charlottesville, VA, File No. BPCT-19860410KN.

To: The Commission:

On August 16, 2004, the Commission accepted for filing an Application for Television Broadcast Station License, File No. BLCT-20040813AAJ, submitted by the Charlottesville Broadcasting Corporation, (CBC), on behalf of itself and it's assignee, Gray Licensee, Inc., for a License to Cover for the construction permit for WCAV, File No. BMPCT-20031219AAK, Facility Id. No. 363. In response to this filing, I hereby submit, as one consolidated filing, the following:

1. An Informal Objection, submitted in re Givens & Bell Inc., and it's pending application for review, of the CBC application for consent to assignment of broadcast station construction permit or license BAPCT – 20040316AJT.
2. A Petition for Special Relief with regards to the construction permit applications of Evangel Communications, Inc., File No. BPCT-860410KN, and of Givens & Bell, Inc. File No. BPCT-19961023KF for a television station construction permit on Ch. 64, in Charlottesville, VA.
3. A Formal Objection, submitted in re: Evangel Communications, Inc., to the grant of a License to Cover for television station WCAV, Charlottesville, Virginia.

Informal Objection

I hereby informally object, as President of Givens & Bell, Inc. (G&B), (formerly the Givens & Bell division of Blue Ridge Video Services, Inc.), to the immediate grant of

CBC's application for License to Cover, pending the outcome of the G&B Application for Review, submitted June 24, 2004, of the CBC application for consent to assignment of broadcast station construction permit or license BAPCT

– 20040316AJT. The license should not be granted until the questions raised in the application for review are addressed and settled.

Regarding the questions raised in G&B's application for review, I hereby object to the request of CBC, stated in Exhibit 3 of their Application for License, that the reporting requirements of 47CFR73.1620(g) be waived.

Background re: Objection

The ownership reporting requirements in 47CFR73.1620(g) were established in 1991¹ pursuant to review and revision of the Comparative Hearing Process for New Broadcast Applicants. This final rule states: "The information will be collected to expedite the Commission's comparative hearing process and to avoid abuses of that process associated with the submission of inflated and /or non-*bona fide* comparative promises. Submission of the required reports will enable the Commission to determine whether the successful applicant was fulfilling its comparative promises concerning divestiture of other media interests, the integration of ownership and management, and the passive role of certain station owners."² It also states: "Although, in a particular case, a settlement may result in a grant to an applicant that might not be considered "best qualified" under our comparative criteria, the settlement process takes place within the

¹ Proposals to Reform the Commission's Comparative Hearing Process to Expedite the Resolution of Cases, General Docket 90-264, FCC 90-410, 56 FR 787.

² 56 FR 787, *Needs and Uses*

context of the comparative criteria,...”³ The Charlottesville Broadcasting Corporation (CBC) application is subject to the comparative hearing ownership reporting rules, as the grant of the construction permit was subsequent to a settlement agreement. Since this settlement agreement was approved by the Commission pursuant to the auction rules in 47 U.S.C. (309)(1)(3), the comments of the Commission in a Memorandum Opinion and Order Adopted April 15, 1999 apply: “we continue to believe that our auction rules,...by prescribing special disclosure requirements for transfers or assignments of stations held less than three years, afford adequate safeguards against....applicants who filed their applications for a speculative purpose.”⁴

Since the grant of this construction permit was the result of a settlement agreement reached between Achenar Broadcasting Company (Achenar) and Lindsay Television, Inc. (Lindsay), that resulted in the formation of the CBC, and not granted subsequent to an auction, the integration promises made by the applicants as a part of the process, continue to survive, and must be met. There is only one time and place where these integration promises, and the subsequent reporting requirements, may be terminated. “Thus, where a settlement of the case is entered into and filed with the presiding judge on or before the notice of appearance deadline, the judge may entertain and grant a request to relieve the successful applicant of divestiture and integration proposals.”⁵ In a subsequent

³ 56 FR 787, at 2.

⁴ From Memorandum Report and Order, FCC 99-74, Adopted April 15, 1999, paragraph 16. See *First Report and Order*, 13 FCC Rcd at 15956. See also 47 C.F.R. paragraph 1.2111(a) (prescribing special disclosure requirements in the event of a transfer or assignment of a license held by auction winner within three years of the receipt of the license): *First Report and Order*, 13 FCC Rcd at 15992.

⁵ 58FR787, at 11.

Memorandum, Opinion and Order the Commission extended this time, stating:

“we will apply the Ruarch policy and permit applicants to withdraw divestiture and integration proposals in conjunction with settlement agreements filed up until the date established for the exchange of exhibits in the case, that is, after the completion of discovery in the case. After the exhibit exchange date, the successful applicant will be expected to fulfill its divestiture and integration proposals.”⁶

Our review of the documents found in proceeding 86-440 has found no request on record to dismiss the integration proposals, either in the settlement agreement submitted on January 30, 1998, or in the subsequent filings. Therefore, the integration promises made by the applicants must still be met, and the associated reporting requirements of 47CFR73.1620(g), are still required.

Informal Objection of Givens & Bell:

With respect to these reporting requirements in this specific instance, there are particular questions, especially in re: the transfers of ownership and change of the balance of control regarding the interests of the former Lindsay Television, Inc., that should be reported, on the record, in full, with respect to the Commission’s review of the transfer of control.

⁶ Proposals To Reform the Commission’s Comparative Hearing Process To Expedite the Resolution of Cases (Memorandum Opinion and Order) General Docket 90-264, 56 FR 25636, at 3.

On June 24, 2004, I submitted, as a homeowner in Charlottesville, Virginia, and as principal owner of the Givens & Bell division of Blue Ridge Video Services (now Givens & Bell, Inc.) a request for review of the May 28, 2004 grant of an application of the Charlottesville Broadcasting Corporation ("CBC"), to transfer control of facility #363, Call Sign WCAV, a construction permit, and its associated, then pending modification of construction permit application, for a new Television station at Charlottesville, Virginia, to Gray Television Licensee, Incorporated ("Gray").

The License for WCAV should not be granted until the questions raised in the Application for Review are addressed and settled; the questions raised include the integration statement of the President of Achenar (now President of CBC). This applicant, the holder of controlling interest in the construction permit, submitted an integration statement, stating, under penalty of perjury, that the applicant (in the case of Ms. Polivy, President and sole voting principal of Achenar Broadcasting Company, "the sole voting principal"), would work full time as the General Manager of the station.⁷ In fact, a separate person, a Mr. Bill Varechna, has been hired by CBC and its assignee, Gray Licensee, Inc. (Gray), and is currently serving as General Manager of WCAV.⁸ As a result, the reports required by 47CFR73.1620(g) should provide useful information with regards to this proceeding, and should not be waived.

⁷ "Amendment to the Application of Achenar Broadcasting Company", May 22, 1986.

⁸ See appendix A for a press release and media clippings regarding the hiring of Mr. Varecha as GM for WCAV.

Petition for Reconsideration and Special Relief

I, Sidney E. Shumate, have only recently obtained control of Evangel Communications, Inc., (Evangel). As such, despite my previous involvement in this proceeding, I have not had the opportunity to appear before the commission as an officer of Evangel, nor have I previously had standing to speak for Evangel. Special circumstances apply. As President of Evangel Communications, Inc., and as President of Givens & Bell, Inc., I hereby Petition the Commission for Special Relief.

Background and Timeline re: Petition for Reconsideration and Special Relief

Of the original five applicants for television channel 64, in Charlottesville, Virginia for which a comparative hearing designation order was adopted on October 31, 1986, two applicants actively withdrew from the proceeding. Commonwealth Broadcasting Corporation, File No. BPCT-860410KO, filed a motion to dismiss on December 10, 1986, and Christopher Gault, File No. BPCT-860220KF, filed to dismiss on January 12, 1987. Both applications were dismissed with prejudice. Three applicants remained: Evangel, (BPCT-860410KN), Achenar (BPCT-860410KP), and Lindsay (BPCT-860410KQ). The National Radio Astronomy Observatory (NRAO) also filed an Informal Objection, and continued to be an active participant in the proceeding.

On August 18, 1988, the presiding Administrative Law Judge (ALJ) issued an *Initial Decision*⁹ proposing to grant the application of Lindsay, and denying the applications of Evangel and Achenar. The *Initial Decision*, in paragraph 94, states: “Evangel ranks last because of its diversification and integration deficiencies.” The ALJ also noted that Achenar was comparatively deficient, and would not have prevailed even if Achenar was not disqualified because of interference to the NRAO¹⁰. While Achenar proceeded to fight the dismissal, Evangel did not pursue the matter at that time. The initial decision was remanded by the Review Board¹¹. In the *Supplemental Initial Decision*¹², the ALJ denied both Achenar and Lindsay’s applications for what he termed violation of the radio astronomy Quiet Zone. The *Supplemental Initial Decision* was reversed by the Review Board¹³. The Review Board was then reversed by the Commission, denying both Achenar and Lindsay¹⁴. All subsequent appeals for reconsideration before the Commission were denied¹⁵.

The proceeding was then appealed separately, by Achenar (on October 21, 1991) and by Lindsay (on April 6, 1992), to the District of Columbia Circuit Court. The appeals were consolidated, and then suspended, at the Commission’s request, until a mass informal renewal objection strategy undertaken by Lindsay

⁹ Evangel Communications, Inc., 3 FCC Rcd. 5421 (ALJ 1998) (*Initial Decision*)

¹⁰ *Id.*, at 3 FCC Rcd. 5433.

¹¹ 4 FCC Rcd. 4629 (Rev. Bd. 1989).

¹² 5 FCC Rcd. 962 (ALJ 1990)

¹³ 5 FCC Rcd. 6309 (Rev. Bd. 1990)

¹⁴ 6 FCC Rcd. 5393 (1991)

¹⁵ reconsideration denied; 7 FCC Rcd 1778 (1992)

had run its course. After the Commission's denial of those objections, on August 18, 1995, the Court of Appeals, in *Achenar Broadcasting Company v. Federal Communications Commission*, (*Achenar v. FCC*) No. 91-1516, found that: "The Commission's reasoning for the denial of Achenar's and Lindsay's applications was less than clear." The Court of Appeals remanded both license applications to the Commission "for an adequate inquiry and explanation of what test of the public interest it is using in the case of astronomy channel use"¹⁶.

Achenar and Lindsay then proceeded to negotiate with the NRAO to reach a workable solution. After several engineering studies and proposals were considered, and after numerous petitions for extensions of time were granted, an engineering proposal acceptable to the NRAO was presented.

While the Commission has since initiated and completed a Report and Order concerning its policy of protecting the NRAO within the Quiet Zone, it's only reply to the Court's order has been to approve the settlement agreement between Achenar, Lindsay, and the NRAO, and state that it would continue to deal with NRAO protection outside the quiet zone strictly on a "case by case" basis.

There were other developments occurring at the Commission, in Congress, and before the D.C. Circuit Court, during the seven years between August 18, 1988 and August 18, 1995, when the Court remanded the applications to the FCC, and the additional two years and five months that passed before the submission

¹⁶ *Achenar Broadcasting Company v. FCC*, 62 F.3rd 1441 (D.C. Cir. 1995)

of the Joint Petition for Approval of Settlement Agreement on January 30, 1998, that affect this proceeding.

These developments included:

1. Bechtel vs. FCC: In 1992, as a result of the *Bechtel v. FCC* (Bechtel) decisions¹⁷ the Commission was directed by the D.C. Circuit Court to reexamine the integration of management and ownership criterion that it had traditionally used to evaluate competing applications in a comparative hearing for a new commercial broadcast station. The court determined that until the Commission could demonstrate that application of this criterion serves the public interest, its continued use would be arbitrary and capricious. This ruling halted the Commission's use of comparative hearing criteria to determining the grantees of new construction permits, pending the resolution of the questions raised by Bechtel. The Commission's subsequent rule making proceeding addressing this issue was still pending when the Balanced Budget Act of 1997 went into effect, after which the rule making proceeding was terminated.
2. The Balanced Budget Act of 1997: The Balanced Budget Act of 1997¹⁸, signed by President Clinton on August 5, 1997, mandated that future mutually exclusive full power commercial broadcast applications be resolved, either using auctions, or the comparative hearing process to

¹⁷ *Bechtel v. FCC* (Bechtel II), 957 F.2d 873 (D.C. Cir. 1992) 294 U.S.App.D.C. 124; see also *Bechtel v. FCC* (Bechtel I), 10 F.3d 875 (D.C.Cir. 1993) 304 U.S.App.D.C. 100.

¹⁸ Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 258-260

resolve the frozen Bechtel cases.¹⁹ “Specifically, Section 309(1) provides that the Commission “shall have the authority to conduct a competitive bidding proceeding pursuant to subsection [309](j)” in comparative broadcast cases involving competing applications filed before July 1, 1997, and that if the Commission does conduct a competitive bidding proceeding, it “shall treat the persons filing such applications as the only persons eligible to be qualified bidders for purposes of such proceeding.”²⁰ In implementing the statute, the Commission determined in the *First Report and Order* and reaffirmed on reconsideration that auctions will be fairer and speedier for all pending comparative broadcast cases even for those cases that were designated for hearing and were litigated at least through an Initial Decision by an Administrative Law Judge.²¹ Section 3002(a)(3) of the The Balanced Budget Act of 1997, states that:

“(l) Applicability of Competitive Bidding to Pending Comparative Licensing Cases.--With respect to competing applications for initial licenses or construction permits for commercial radio or television stations that were filed with the Commission before July 1, 1997, the Commission shall--

“(1) have the authority to conduct a competitive bidding proceeding pursuant to subsection (j) to assign such license or permit;

“(2) treat the persons filing such applications as the only persons eligible to be qualified bidders for purposes of such

¹⁹ First Report and Order, MM Docket 97-234, GC Docket 92-52, and General Docket No. 90-264, 13 FCC Rcd. 15920 (1998) (Auctions R&O).

²⁰ Section 309(1) as quoted, with comments, from *Order*, FCC 99-157 paragraph 3, MM Docket No. 97-234, GC Docket No. 92-52, and General Docket No. 90-264, Adopted June 30, 1999, Released July 2, 1999.

²¹ *First Report and Order*, 13 FCC Rcd. 15940-42, at 52-58; *Order on Reconsideration*, FCC 99-74 at 8.

proceeding; and

“(3) waive any provisions of its regulations necessary to permit such persons to enter an agreement to procure the removal of a conflict between their applications during the 180-day period beginning on the date of enactment of the Balanced Budget Act of 1997.”

And the specific language ordered by the Balanced Budget Act of 1997 to codify the changes is:

“(3) Resolution of pending comparative licensing cases.--Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is further amended by adding at the end the following new subsection:

“(1) Applicability of Competitive Bidding to Pending Comparative Licensing Cases.--With respect to competing applications for initial licenses or construction permits for commercial radio or television stations that were filed with the Commission before July 1, 1997, the Commission shall--

“(1) have the authority to conduct a competitive bidding proceeding pursuant to subsection (j) to assign such license or permit;

“(2) treat the persons filing such applications as the only persons eligible to be qualified bidders for purposes of such proceeding; and

“(3) waive any provisions of its regulations necessary to permit such persons to enter an agreement to procure the removal of a conflict between their applications during the 180-day period beginning on the date of enactment of the Balanced Budget Act of 1997.”.

Therefore, the Balanced Budget Act of 1997 ordered that for applicants whose applications had been filed before July 1, 1997, the commission must waive any and all provisions of its regulations necessary to permit such persons to enter into an agreement to procure the removal of a conflict between their applications, during the 180-day period which ended on February 1, 1998.

In addition, Section 3004, codified as 47 U.S.C. paragraph 337, directs the Commission to reallocate 24 megahertz of spectrum in the 746-806 MHz band for public safety services and the remaining 36 megahertz for commercial use. The 746-806 MHz band currently comprises television channels 60-69.

3. Report and Order, Reallocation of Television Channels 60-69, the 746-806 MHz Band This Report and Order²², initiated by the Commission to implement Section 3004 of the Balanced Budget Act of 1997, precluded the further grant of new construction permits on television channels 60 to 69 (746 – 806 MHz). The Commission denied Lindsay's request for a stay²³ of this Report and Order.

The Commission, in an attempt to bring an end to proceeding 86-440, and on its own Motion, in a Memorandum Opinion and Order²⁴ adopted on April 19, 2000, approved the settlement agreement, pursuant to 47 U.S.C. paragraphs 337 and 309(1)(3), between Achenar, Lindsay, and the NRAO, that had been submitted on January 30, 1998, and ordered the grant of a construction permit on television channel 19, replacing channel 64 in the application(s), at

²² *First Report and Order*, FCC 97-421, 13 FCC Rcd. 15920 (1998), recon. Denied, FCC 99-74 (rel. April 20, 1999) ET Docket 97-157

²³ Motion for Stay, May 10, 1999 by Jerome Thomas Lamprecht, Susan M. Bechtel and Lindsay Television, denied by *Order*, Adopted June 30, 1999, MM Docket 97-234, GC Docket No. 92-52, General Docket No. 90-264.

²⁴ Memorandum Opinion and Order, adopted 4/19/2000, Proceeding 86-440.

Charlottesville, VA to CBC. CBC was, as formed, owned 50% by Achenar, and 50% by Lindsay.

With Regard to Evangel Communications, Inc.

The Commission, in choosing to reinstate Achenar and Lindsay as applicants, rather than defending its earlier decision, erred in that it failed to also automatically reinstate Evangel. Evangel had been disqualified and its application denied in the same Initial Decision as Achenar; the same Initial Decision, after subsequent appeals that were appealed to the D.C. Circuit Court, by Achenar. Between the date of the Initial Decision, and the decision in *Achenar v. FCC* remanding Achenar and Lindsay, the dispositive comparative criteria by which Evangel Communications had been denied, were declared, in *Bechtel I and II*, to be arbitrary and capricious, and were therefore no longer valid. The actions of the Commission in its Memorandum Opinion and Order, ordering the acceptance and eventual grant of a construction permit yet to be approved, rendered moot all other criteria by which Evangel had been disqualified. Therefore, for the Commission to reinstate Achenar and Lindsay, subsequent to the remand of the Court, without also reinstating Evangel so that it could also participate in the settlement agreement, created a situation where one of the applicants in a comparative hearing received disparate treatment. The Commission, inasmuch as it admitted, in paragraph 8 of a Memorandum Opinion and Order, FCC # 99-74, adopted April 15, 1999, that it could not finalize a twice-

granted, but not finalized, construction permit application because the comparative issues invalidated by *Bechtel II* were dispositive in both decisions, must conversely have been aware that it was necessary, when reinstating applicants of still-pending comparative cases, to also reinstate all applicants whose denial by the Commission was based upon invalidated comparative criteria. All three applicants had been denied by the Commission, utilizing criteria that, by 1996, had been declared arbitrary and capricious by the Courts. The treatment of Evangel, ignored and forgotten by the Commission, is significantly different from that afforded to the other two previously considered and similarly situated applicants, in comparable circumstances. Similarly situated parties must be treated alike.²⁵ The rules in 47U.S.C. (309)(l) that allowed auction-avoiding settlements, allowed these settlements only during the 180 days prior to February 1, 1998. Therefore, when Achenar and Lindsay were reinstated, and were allowed to negotiate a merger agreement with each other, the Commission, by failing to reinstate Evangel, left an eligible applicant out of the agreement. The subsequent agreement, therefore, did not include at least one applicant that was eligible to be included in this agreement, rendering the agreement moot. Therefore, the agreement should never have been approved by the Commission.

With Regard to Evangel Communications, Inc. and Givens & Bell, Inc.

²⁵ *Melody Music, Inc. v. F.C.C.*, 345 F.2d 730 (D. C. Cir. 1965).

The plain language of the Balanced Budget Act of 1997 (the Act) is clear.

There were only two requirements that had to be met for an applicant to be eligible to participate in a settlement agreement that would avoid an auction in a pending comparative licensing case, or to be eligible to be qualified bidders for purposes of such proceeding.

1. The case had to be pending.
2. The applicants had to have filed competing applications for initial licenses or construction permits for commercial radio or television stations with the Commission, before July 1, 1997.

The U. S. Supreme Court, in denying a writ of certiorari in *Ranger Cellular and Miller Communications, Inc. v. Federal Communications Commission and United States of America*²⁶ noted that the provisions applied to “pending comparative licensing cases. —those involving “competing applications for initial licenses or construction permits for commercial radio or television stations” in which applications had been filed before July 1, 1997.” In doing so, the U. S. Supreme Court pointed out that with regard to these cases, it is the particular comparative hearing case, (not necessarily all of the eligible applicant’s applications), that must be pending.

²⁶ 333 F.3rd 255 (U. S. Court of Appeals) cert denied,(U.S. Supreme Court) No. 03-831 (March, 2004)

With regard to any and all other requirements, including, but not limited to the fact that said applicants may have been previously denied by Commission action, and not be currently pending, the Act states:

“(T)he Commission shall--(3) waive any provisions of its regulations necessary to permit such persons to enter an agreement to procure the removal of a conflict between their applications during the 180-day period beginning on the date of enactment of the Balanced Budget Act of 1997.”

Clearly, the intent of Congress was to include, in these settlements and auctions, all applicants who had filed, before July 1, 1997, competing applications in a particular case, including, but not limited to, those that had been previously denied under now-invalidated comparative criteria, and those that had been denied by the Commission as not being parties to the proceeding. Congress also ordered the Commission to waive, as necessary, any and all of its rules in order to achieve this result.

By not affording Evangel and G&B the opportunity to participate in the settlement, the Commission failed to meet the required mandate of Congress. The window of opportunity for settlement is now long past. The settlement agreement is, therefore, not valid, and the Commission must rescind its approval of the agreement and all related subsequent actions. Since the settlement window is now long closed, the Congressional mandate in 47 U.S.C. (301) requires the Commission to place the Ch. 64 (now Ch. 19?)

comparative hearing, Docket 86-440, allotment up for auction, with the eligible bidders being Evangel, CBC or Gray (the principals of Lindsay having merged, and later sold out to the former principals of Achenar, who now hold controlling interest in CBC, who have agreed to sell out to Gray), and G&B.

Petition:

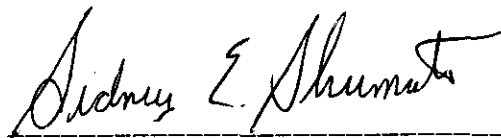
I, Sid Shumate, as President of Givens & Bell, Inc., and as President of Evangel Communications, Inc., hereby Petition the Commission for Reconsideration and Special Relief. For the reasons stated above, I petition the Commission to reconsider its approval of the settlement agreement, and to:

1. Rescind the settlement agreement and all related subsequent actions.
2. Reinstate Evangel as an pending applicant, in full, with regard to Mass Media Proceeding 86-440, the comparative hearing /auction proceeding re Ch. 64/Ch. 19 at Charlottesville, VA.
3. Install G&B as an applicant eligible to participate in an auction, or, if the circumstances allow, in any future window of opportunity to participate in a settlement agreement re: Mass Media Proceeding 86-440, as authorized and required by 47 U.S.C. (301)(l).

Formal Objection

For the reasons stated above in the Petition for Reconsideration and Special Relief, I hereby object, as President of Evangel Communications, Inc. to the grant of
CBC's application for License to Cover.

Respectfully submitted,

A handwritten signature in cursive script, reading "Sidney E. Shumate", written over a horizontal line.

Sidney E. Shumate

Appendix A:

Documentation of the Hiring of a new General Manager for WCAV.

from: www.VARTV.com

:// Channel 19 Charlottesville has a new website and call letters

WCAV-TV Gray Television has launched a brand new website for Channel 19 Charlottesville at WCAV.tv; its brand new call letters. The following message is included on the site... Gray Television, Inc. has announced plans to bring a new television station to the Charlottesville area. WCAV, Channel 19, is expected to be on the air by mid-August 2004. WCAV will be a CBS affiliate, giving residents access to award-winning shows like C.S.I., Survivor, 60 Minutes, Late Night with David Letterman and much more. In addition, WCAV will launch local newscasts, beginning with 6 and 11pm newscasts. Morning newscasts will also be added in the foreseeable future.

Gray Television will be building a new broadcast facility to support the station, and hiring a full staff. Bill Varecha has been hired to serve as General Manager of WCAV. Mr. Varecha is no stranger to startup television stations. He launched KKCO in Grand Junction, Colorado, and quickly led it to the number one position in the market.

WCAV's brand of television will be Where Community Counts. The station will place a strong emphasis on community involvement from covering important community news to participating in community events. Coverage of local sports will also be high on our priority list. We want to be a part of the community and we want the community to be a part of the station.

A final footnote, the WCAV call letters were taken by the FOX affiliate in Christiansted, Virgin Islands who recently dumped them for WVIF..... (5/7/04)

September 13, 2004

Ms. Marlene H. Dortch
Secretary, Federal Communications Commission
445 12th St. S.W.
Washington DC 20554

Re: MM Docket 86-440

Dear Ms. Dortch:

I, Sid Shumate, as President of Givens & Bell, Inc., and as President of Evangel Communications, Inc., hereby submit the enclosed Objections, submitted informally in re Givens & Bell Inc., and submitted formally in re: Evangel Communications, Inc., to the grant of a License to Cover for television station WCAV, Charlottesville, Virginia, and also Petition the Commission for Reconsideration and Special Relief with regards to the construction permit applications of Evangel Communications, Inc., file # BPCT-860410KN, and of Givens & Bell, Inc. File No. BPCT-19961023KF.

I certify that I am mailing or hand-carrying true copies to the following interested parties:

Mr. Gene A. Bechtel, Esq.
Law Office of Gene Bechtel, P.C., Suite 600
1050 Seventeenth St., NW
Washington DC 20036

Gray Television Licensee, Inc.
1750 K. Street, NW
Suite 1200
Washington, DC 20006

Lauren A. Colby, Esq.
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Ms. Katrina Renouf, Esq.
Renouf and Polivy
432 Sixteenth St., N.W.
Washington DC 20036

Sidney E. Shumate
President, Evangel Communications, Inc.
President, Givens & Bell, Inc.
1897 Ridge Road, Haymarket VA 20169

WCAV, coming to your TV

CBS affiliate and Channel 9 keep rolling toward fall on-air dates

Developments continue in Charlottesville's shifting TV landscape, a week after news of a CBS television affiliate moving into the old Ix building and of veteran news director Dave Cupp's plan to leave WVIR-TV, Channel 29 this fall ["Station gestations," The Week, May 4].

Gray Television, Inc., which owns the new CBS affiliate slated for Channel 19, has announced call letters for the station—WCAV—and the slogan, "Where Community Counts." The call letters were obtained from a TV station on Saint Croix, in the U.S. Virgin Islands. Gray has also launched a website for WCAV-TV, www.wcav.com.

Tracey Jones, Gray's regional vice-president of television, says the new website is primarily for recruiting purposes. In addition to hiring reporters, producers and engineers, Gray is working on scoring a slot for WCAV on Adelphia, the primary local cable company. Jones says cable negotiations "are not buttoned up," but "I certainly anticipate cable carriage."

WCAV's recently hired general manager, Bill Varecha, has previously run a new TV station in a small market. Jones says Varecha helped Gray launch an NBC affiliate in Grand Junction, Colorado, which is about the same size as the Charlottesville market, in 1996. At the time, CBS and ABC stations were already entrenched in Grand Junction, but Jones says Varecha shepherded the NBC affiliate to the top rating in Grand Junction.

Two former Channel 29 reporters think their old newsroom is up to the challenge posed by CBS and the other proposed local television channel—Albemarle entrepreneurs Bob Sigman and Denny King's planned community station, Channel 9—but that news director Cupp will be missed.

From her new job as an anchor for a CBS affiliate in Charleston, West Virginia, former WVIR anchor and reporter Brooke Baldwin says, via e-mail, "Dave Cupp is quintessential Charlottesville. Period. His departure will leave a huge hole in NBC 29."

"I think their coverage can only get better," Baldwin says of how WVIR will perform with two challengers. She says because Channel 29 reporters have the "home field advantage," it will sting when they are bested on stories. "So, they'll just have to up the ante," Baldwin says.

Though Luke Duecy, a former NBC 29 anchor who has just signed on with WRIC, Channel 8 in Richmond, predicts competition will be a good thing for his old station as well as for TV viewers, he says, also by e-mail, "Let's just hope for all journalists' sake the competition between them doesn't produce exaggerated, sensationalistic stories that don't really impact anybody."

While WCAV-TV moves toward a mid-August on-air date, Channel 9's King says his phone is ringing off the hook. King says he and Sigman have received around 300 calls, e-mails, faxes and letters "from every walk of life" about the new station.

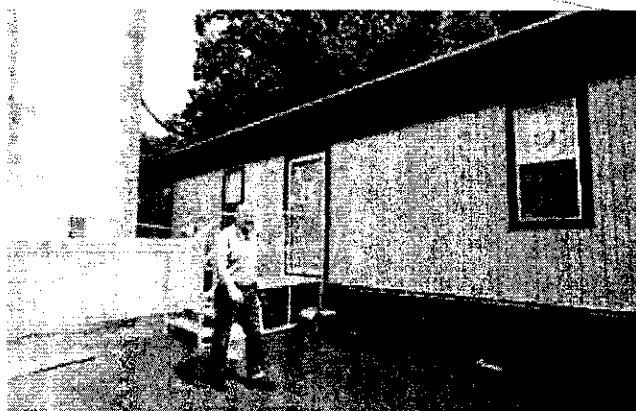
Many people contacting Channel 9's creators have submitted ideas for shows, ranging, King says, from "equestrian life" to law enforcement and senior-oriented programming. King also says a "very famous author living in this area" has expressed interest in a show about books.

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Ultimately, television ad rates are dictated by ratings, and Jones is confident the new network affiliates are going to bring in the numbers.

For viewers, the competition should mean more and better local news coverage. After all, there are 70,000 stories in the Naked City.

Stay tuned.



Bill Varecha is a pro at start-up television stations. Gray Television hired him to get WCAV and WVAW up and running.

PHOTO BY JEN FARIELLO



WCAV's first reporter-- UVA media studies major Katie Graham-- doesn't let the lack of a studio stop her from delivering news spots in the trailer where the station is temporarily housed.

PHOTO BY JEN FARIELLO



The sets of WCAV and WVAW, which will arrive prefabricated from Kentucky on September 24, may vary from these preliminary sketches.

DRAWINGS COURTESY WCAV/WVAW

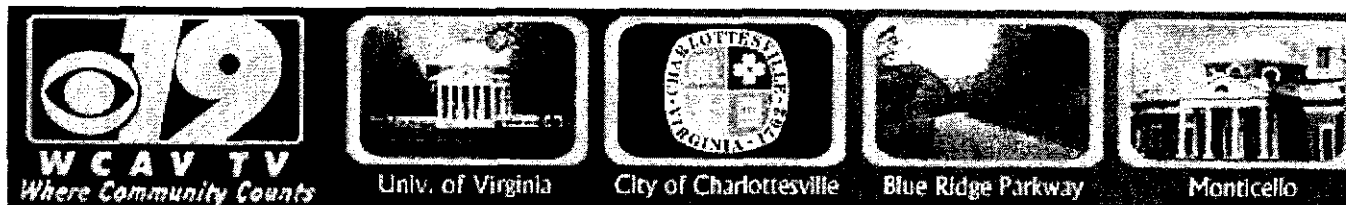


WVIR NBC 29 anchor Dave Cupp pooh poohs the notion that he's delaying his departure because of the new competing ABC and CBS affiliates.

PUBLICITY PHOTO



Denny King and Bob Sigman didn't think Charlottesville provides enough local news. Thus was born WCVL, "all Charlottesville, all the time."



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